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C O N F I D E N T I A L SECTION 01 OF 02 MANAMA 000007

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SUBJECT: NDI TACKLES THE 2002 CONSTITUTION

Classified By: ADCM Gregory N. Hicks for reasons 1.4 (b) and (d).

1. (U) SUMMARY: Despite a last minute Al Wifaq political society boycott, 90 Bahraini politicians, including an Al Wifaq elected official, attended an NDI seminar on the legislative authority in the 2002 Constitution. NDI representative Fawzi Guleid argued that the 2002 Constitution provides ample legislative authority to the National Assembly if members wish to exercise it. He asserted that members have the right to draft legislation and noted that they may approve, reject, or amend government proposed bills. Opposition participants rejected Guleid's position on the basis that the 2002 Constitution is illegitimate, but others supported Guleid's view. Overall, the seminar was a success for promoting the growth of Bahrain's democracy. END SUMMARY.

2. (C) On December 9, the National Democratic Institute (NDI) in cooperation with Al Minbar National Islamic Society organized a seminar to discuss the legislative power of the Bahraini Constitution. In the two weeks leading up to the seminar, there was 'talk' that Al Wifaq was dissatisfied with the seminar topic. NDI Program Manager Fawzi Guleid heard from various members of the other opposition parties that Al Wifaq was thinking of boycotting the event. One of Al Wifaq's long-standing criticisms of the GOB is that Bahrain's Constitution is illegitimate and that Bahrain remains in the quagmire of a constitutional crisis. Guleid expressed his nervousness to PolOff about the possibility of Al Wifaq not attending the seminar. He was concerned that the five other opposition parties would side with Al Wifaq and no one would attend. Guleid told PolOff that three phone calls with Al Wifaq's President Ali Salman bore no indication of whether the rumors about boycotting the event were true. But the day before the seminar, Al Wifaq leadership announced they would not attend. Nonetheless, 90 participants out of 120 respondents attended, including National Assembly members, Municipal Council members, prominent politicians, members of various opposition parties, including a prominent Al Wifaq Municipal Counselor Murtadha Bader. (COMMENT: This seminar is one of the rare occasions when the six 'boycotting societies' did not act as a unified group, a sign that most of those societies which boycotted the 2002 elections may be looking forward to participating in the future. END COMMENT.) The seminar was organized into two groups of presentations followed by question and answer sessions open to the floor. NDI promised to revisit the topic in the future by hosting two or three follow-up brain storming sessions.

3. (U) Under the session entitled, "The Actual Jurisdiction of the Legislative Authority in Bahrain," President of Al Minbar National Islamic Society and COR member, Dr. Salah Ali opened the seminar with a presentation on the system of both COR and Shura Council parliamentary operation within the articles of the Constitution. Attorney and Al Minbar Board member Shaikh Issa Bin Mohammed Al Khalifa noted the existence within Bahrain of three major political orientations, one of which supports the legislative authority's jurisdiction stipulated in the 2002 Constitution, a second which refuses to recognize the legislative body on the grounds that the 2002 Constitution is illegitimate, and a third new wave which accepts the current situation as a foundation that can be improved.

4. (U) COR's legal Advisor, Amro Foad Barakat discussed the importance of a thorough reading and understanding of the Constitution and the bylaws. He outlined details and rules of procedure concerning both the Representative and Shura Councils. This was followed by Attorney and Advisor at the Department of Legal Affairs, Mal Allah Jaafer Al Hammadi explained the basic principles of drafting legislation. Shaikh Issa presented a paper on the parliamentary process for both Shura and COR as presented in the Constitution.

5. (U) Guleid concluded the seminar by facilitating a brainstorming session on the role and authority of the legislative authority as stipulated in the National Charter, Constitution, and National Assembly Bylaws. He reminded the participants that there are many ways to interpret the Constitution; "It is not black and white," he said. The Constitution is written with legislative participation and

power distributed in a way that avoids clashes between the Cabinet and the Legislators. The King and the Cabinet are not the only drivers of the legislative process. Members have the power to introduce legislation. Guleid noted that the Bahraini Constitution issued on 14 February 2002 and the bylaws presented by the government limited the jurisdiction of the National Council. He stated that executive control currently exercised over the legislative process may violate articles 56 and 93 of the Constitution. Article 92 of the Constitution allows 15 members of the Shura or the COR to propose an amendment to the Constitution. Article 92 also allows any member of the two chambers to propose laws. Along with articles 81 and 104(c), Guleid underscored that the Shura and the COR have the right to prepare or draft legislation without referring them to any government entity and if the Prime Minister presents a bill, the chambers have the right to pass, amend or reject it.

The Opportunity to Agree and Disagree

16. (U) Most questions and comments focused on Shaikh Issa's Third Wave argument of accepting the current Constitution and moving forward. Writer and Founder of the Gulf Academy for Development and Human Resources Taqi Al Zeera urged that the National Charter, while drafted by the GOB and approved and accepted by the people, must now offer realistic solutions. Former President of the Bahrain Center for Human Rights BCHR) Aziz Abul disagreed arguing that the core issue is still the validity of the 2002 Constitution, which was passed individually by the King, but not approved by the people. Fifty percent of the people rejected the constitution, he asserted. (NOTE: The boycotting opposition societies turned the 2002 election into a referendum on the constitution. Turnout in the election was 53%, a victory by any democratic standard for the King and Constitution. END NOTE.) Member of the National Action Society, Dr. Abdul Nabi Al Ekri echoed his sentiments and said that, "Fifty percent of the boycotting societies do not reject the reform process or development, but rather the 2002 constitution. COR member Municipal Council member Murtadha Bader and member of the boycotting Al Wifaq Society, anticipated a drop in participation in the 2006 election, due to what he described as &slow as a turtle& progress of the representative council and &backward& laws. Other participants noted that the parliamentary experience would have been in better shape had the boycotting societies, many of which are very experienced, participated.

17. (U) COMMENT: The outstanding reputation of NDI's programs and the influence it has on opposition society members, NGOs, the Municipal Council, the Shura and the COR made Al Wifaq's last minute boycott of the seminar a non-issue. Five boycotting societies and even members of Al Wifaq attended. The seminar demonstrated many opportunities for political activists to make the existing system work and represents another NDI success for promoting democracy in Bahrain. END COMMENT.
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